

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNLY R. BECKER,

Plaintiff,

No. CIV S-11-1491 KJM EFB PS

vs.

EXECUTIVE OFFICE FOR UNITED
STATES ATTORNEYS, UNITED
STATES DEPARTMENT OF JUSTICE,

ORDER

Defendant.

On June 2, 2011, plaintiff filed a complaint under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and paid the filing fee. Dckt. No. 1. Thereafter, the Clerk of Court issued a summons directing defendant to serve an answer to plaintiff’s complaint within 60 days of service of that summons. Dckt. No. 3.

On June 6, 2011, plaintiff filed a motion to compel defendant to serve an answer within thirty days, as required by 5 U.S.C. § 552(a)(4)(C). Section 552(a)(4)(C) provides that “Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.” Therefore, plaintiff is correct that defendant is required to serve an answer

1 or other response to plaintiff's complaint within thirty days after service, not sixty days as
2 indicated in the summons.

3 However, on June 21, 2011, defendant filed a notice of appearance for defendant, the
4 United States Department of Justice, indicating that defendant will appear within 30 days of
5 receipt of the summons and complaint, or by July 6, 2011. Dckt. No. 8. In light of that
6 representation, plaintiff's motion to compel defendant to answer within thirty days, Dckt. No. 6,
7 is denied as moot.

8 SO ORDERED.

9 DATED: June 21, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE